

**Remarks/Arguments:**

Claims 1-45 are pending in the application. Claims 46-54 have been added. Claim 42 has been cancelled. The Office Action rejects all of the pending claims. The applicant respectfully disagrees with these rejections, but submits that, as amended, and consistent with the remarks below, all of the claims are now in condition for allowance.

**Rejections under 35 U.S.C. § 102**

Hsein

The Office Action rejects claims 1-5, 12-19, 21, 24-30, 36 and 43-45 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,279,310 to Hsien. The applicant respectfully disagrees.

As is clearly indicated by the title "Spinal Column Correction Device" and object statement ("to provide a device which can correct the spinal column of an user"), the device disclosed by Hsein is clearly a medical device used only for the purpose of correcting the spinal column of a patient resting on his or her back. Accordingly, the structure and methods of use for the apparatus described by Hsein are clearly distinguishable from the applicant's claimed invention for a number of reasons.

Independent claim 1, as amended, recites "no more than one adjustable section per body zone." Each support in Hsien's spinal column correction device has two adjustable inflation chambers therein -- one on each side of the groove for receiving the user's spine. The nature of the Hsien device (having a groove or spine line between the two adjacent inflatable supports in each section) is such that there is no suggestion to modify the Hsein device to use a single adjustable section in each body zone. The applicant's device is not intended as a spinal column correction device, but rather for use by the average person without any particular medical condition. The use of a single adjustable section eliminates 50% of the potential failure points for the device, makes it easier to use, makes it more economical, and provides a very different structure as compared to the Hsien device. Because Hsien does not teach or suggest each and every limitation of the applicant's claims, the rejection of claims 1 and 36 should be withdrawn, claims 1 and 36 should be allowed, and claims 2-5, 13-19, 21, and 24-30 should be allowed at least as being dependent upon an allowable base claim.

Claim 12 has been amended to be in independent form, and is distinguishable from Hsein because it recites that one of the at least two body zones comprises an upper arm/shoulder body zone and another of the at least two body zones is selected from the group consisting of: a head/neck body zone and a thigh/upper leg/hip/lower back body zone. Hsein does not show any device that includes the arm/shoulder body zone as one of the zones. Hsein discloses three rests: a head rest 10, a lumbar rest 20, and bottom rest 30. Because Hsein is directed for correcting the spine of someone at rest on his or her back, Hsein does not disclose the use of a pillow for resting the arm/shoulder region, but instead discloses the lumbar rest, which is not usable as an arm/shoulder rest. Accordingly, Hsein fails to teach or suggest each and every limitation of claim 12.

Claim 36 recites a first inflatable/deflatable pillow for supporting the head/neck body zone; a second inflatable/deflatable pillow for supporting a top arm in the upper arm body zone; and a third inflatable/deflatable pillow for insertion between a bottom leg and a top leg

for supporting the top leg in the thigh/upper leg/hip/lower back body zone "during rest on the person's side." The device disclosed by Hsien is not designed for rest on a person's side, and the lumbar rest does not have a structure capable of "supporting a top arm in the upper arm body zone." Similarly, the bottom rest does not have a structure suitable for "insertion between a bottom leg and a top leg." Only the applicant's device as recited in claim 36 has a structure capable of performing such functions.

Claim 43, as amended, recites "at least two discrete *non-adjustable* and non-connected supports. Hsien recites adjustable supports. Accordingly, Hsien does not teach or suggest each and every limitation of claim 43, and therefore this rejection should be withdrawn, claim 43 should be allowed, and claims 44 and 45 should be allowed at least as being dependent upon an allowable base claim. The term "non-connected" was added to claim 43 to clarify the meaning of the term "discrete" as applied to the claimed supports.

Newly added claim 49 distinguishes from Hsein on the basis of the geometry of the supports. Hsien teaches rests having a very specific geometric structure, including a spine groove for accepting the spine of the patient. Applicant's claim 50 recites sections having a geometry that does not read on the rests disclosed by Hsien having grooves.

#### Graebe

The Office Action rejects claim 42 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,189,168 to Graebe. The applicant disagrees, but respectfully submits that because this claim has been cancelled without prejudice, that this rejection is now moot.

#### **Rejections under 35 U.S.C. § 103**

##### Hsein in view of Graebe

The Office Action rejects claims 6-11, 20, 22-23 and 31-35 under 35 U.S.C. § 103(a) as being unpatentable over Hsien in view of Graebe. The applicant respectfully disagrees. The cited claims are all directly or indirectly dependent upon claim 1. There is no suggestion or motivation to combine the features of Hsien with Graebe to recite all of the elements in claim 1, as amended. Hsien shows multiple inflation chambers in each body zone. Graebe teaches a single pillow for use only for the head and neck region. There is no suggestion in the references that the construction of Hsien could be modified to have a single inflation chamber, nor is there any suggestion that the construction of Graebe could be used in conjunction with other components to provide support for multiple body zones. The only suggestion for the combination of features recited in the applicant's claims comes from the applicant's specification. Because there is no suggestion to combine the references to produce an embodiment having all of the features of claim 1, claims 6-11, 20, 22-23 and 31-35 should be allowed at least as being dependent upon an allowable base claim.

##### Eary in view of Hsien

The Office Action rejects claims 37-40 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,901,384 to Eary in view of Hsien. The applicant respectfully disagrees. Claim 37 recites a method for promoting sound rest in a person resting on his or her side, including providing adjustable supports. Eary does not teach or suggest adjustability at all, and Hsien, as previously discussed, is designed solely for correcting a medical condition for a user

positioned on his or her back. There is no teaching or suggestion that the system disclosed by Hsien could be combined with that disclosed by Eary to provide adjustability for a side sleeper. Significantly, nowhere does Hsien teach an adjustable support for supporting an arm body zone, but rather only teaches an adjustable support for a lumbar body zone. Accordingly, the combination of references fails to teach or suggest each and every limitation of claim 37, and the rejection should be withdrawn. Claims 38-40 should be allowed at least as being dependent upon an allowable base claim.

Newly added claim 51 and its dependents recites a method that promotes sound rest for the user both for when the user is resting on the user's back and when the user is resting on the user's side. Any methods for using the device disclosed by Hsien can only promote rest on the user's back, not *both* on the user's back and on the user's side.

Eary in view of Hsien in view of Kim

The Office Action rejects claim 41 under 35 U.S.C. § 103(a) as being unpatentable over Eary in view of Hsien in view of U.S. Patent No. 5,987,675 to Kim. The applicant respectfully disagrees. The Office Action does not apply the Hsien reference in the body of this rejection, so it is unclear for what purpose Hsien is cited.

Claim 37 (on which claim 41 is based) recites providing a mechanism for adjusting the *elevation* of the first, second, and third supports. Kim relates to spinal support systems made for supporting a person resting on his or her back. Eary relates to a body pillow for a person resting on his or her side, but does not disclose adjustable sections. Kim discloses the use of an adjustable shoulder support pad 18 and an adjustable thoracic and lumbar support pad 20, having specific geometric configurations, for use with the specific spinal support system disclosed by Kim. Significantly, the structure disclosed by Kim has a fixed elevation, and the use of pads 18 and 20 merely provide adjustment for the presence or absence of, or precise location of, additional support in the relevant regions of the device. Nowhere does Kim teach or suggest adjusting the *elevation* of particular sections with these pads. Similarly, nowhere does Eary suggest an adjustable elevation at all. To the extent that Hsien may be relied upon for teaching adjustment of elevation generally, Hsien only teaches adjustment using an inflation mechanism. Because Kim does not teach adjustment of elevation at all, there is no teaching or suggestion to use inserts to adjust elevation, except within the confines of the applicant's specification. Accordingly, even though the applicant finds no motivation to combine the cited references, even if combined, the references fail to teach or suggest each and every limitation of claim 41, and this rejection should be withdrawn.

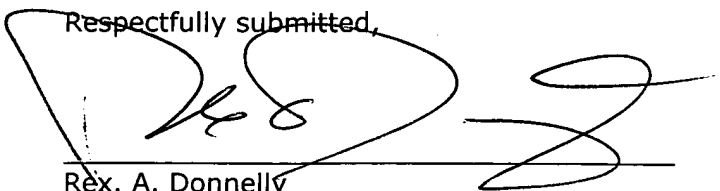
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**Conclusions**

For all of the above reasons, each of the rejections should be withdrawn and all of the claims allowed. If for any reason the Examiner believes that discussion of this application will facilitate prosecution of this matter, the applicant respectfully requests that the Examiner contact the applicant's attorney for that purpose.

Respectfully submitted,

  
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Dated: March 8, 2005

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The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. **18-0350** of any fees associated with this communication.

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March 8, 2005

Ruth Curran

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